APR 9 1952
CHARLES ELMORE CRO
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1951.

No. 694

EUSEBIUS JAMES BIGGS,

Petitioner,

vs.

WALTER SPADER and MRS. WALTER SPADER, his wife,

and

RALPH L. MAXWELL, HARRY B. HERSHEY, GEORGE W. BRISTOW, ALBERT M. CRAMPTON, JOSEPH E. DAILY, and WILLIAM J. FULTON, as Justices of the Supreme Court of the State of Illinois,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS OR THE SUPERIOR COURT OF COOK COUNTY, OR IN THE ALTERNATE, PETITION FOR WRIT OF MANDAMUS OR WRIT OF PROHIBITION, OR ALL OR ANY ONE OF THE AFORESAID ITEMS, WITH PETITION FOR AN IMMEDIATE RESTRAINING ORDER ESTOPPING THE JUSTICES OF THE SUPREME COURT OF ILLINOIS FROM PRINTING VOLUME 411 OF THEIR REPORTS CONTAINING THE CASE OF BIGGS vs. SPADER AS NOW PRINTED IN THE SOCALLED ADVANCE SHEETS OF THE ILLINOIS REPORTER.

EUSEBIUS J. BIGGS,
8536 S. Peoria Street,
Chicago 20, Illinois,
Petitioner.

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TO THE HONORABLE JUSTICES:

Eusebius James Biggs, hereinafter referred to as the petitioner, prays that a writ of certiorari issue to review

the opinion of the Supreme Court of the State of Illinois or the ruling of the Superior Court of Cook County, Illinois, or either one or both items, and in the alternate or in addition to either one or both of the above items, he moves this Court for permission to file a petition for writ of mandamus or writ of prohibition hereto annexed, and further moves that an order and rule be entered and issued directing the Honorable The Supreme Court of Illinois, and the Honorable Ralph L. Maxwell, Harry B. Hershey, George W. Bristow, Albert M. Crampton, Joseph E. Daily, and William J. Fulton (hereinafter in other pleadings referred to as the responding Justices or the Justices of the Supreme Court of Illinois), to show cause why a writ of mandamus or writ of prohibition and an immediate injunction should not be issued against them in accordance with the prayer of the petitioner's petitions, and why your petitioner should not have such other and further relief in the premises as may be just and meet.

E. J. Biggs,
Petitioner.

OPINION BELOW.

The controlling opinion which caused this case to come before the Court is reported as *Biggs* v. *Schwalge,* 341 Ill. App. 268, which could not be appealed without the consent of the Justices of the Court involved, and they would not give their consent, which could have caused the error in the Superior Court of Illinois in this case. The two opinions of the Supreme Court of Illinois are set forth as Appendix "A" hereinafter attached, which is responsible for the making of claims for alternate relief herein because the responding Justices have published two opinions which contain the untrue statement "—appellant is seeking a review of the issues in which this Court previously denied his petition for leave to appeal" (*Biggs* v. *Schwalge,* 341 Ill. App. 268). along with the other untrue allegations.

JURISDICTION.

The decision of the Supreme Court of Illinois became final on the 21st day of January, 1952 when petitioner's petition for rehearing was denied by the Supreme Court of Illinois, and no matter at issue was adjudicated on the merits.

The jurisdiction by appeal is conferred by Title 28, United States Code, section 2101 (c). The following decisions sustain the jurisdiction of the Supreme Court to review the judgment, *Herb* v. *Pitcairn* (324 U. S. 117 (1945), *Hooven and Allison* v. *Evatt* (324 U. S. 652 (1945), *Craig* v. *Harney,* (331 U. S. 367), *Central Union* v. *Edwardsville* (269 U. S. 140), *Parker* v. *Illinois* (333 U. S. 571), *Chesapeake and Ohio Ry. Co.* v. *Kuhn* (284

U. S. 44), *Chicago & E. I. Ry.* v. *Industrial Commission of Illinois* (284 U. S. 296), and as the main question involved here is as to whether or not the petitioner can be libelled by the Justices of the Supreme Court for suing on an assignment, the petitioner contends that what comes before this Court is an intentional violation of the Fourteenth Amendment to the Constitution of the United States, and what is probably before the Court is a violation of Section 20 of the Criminal Code 18 U. S. C. (1946 ed.) Section 52, or in any event acts in violation of Title 8 U. S. C. A. Sections 41, 43 and 47.

STATUTES INVOLVED.

Smith Hurd Statutes of Illinois; (1949 and 1951) chapter 13; chapter 38, section 381; chapter 38, section 402; chapter 110, section 216, section 259.59.

Title 8, U. S. C. A. Sections 43 and 47.

Criminal Code, Title 18, U. S. C. A. Section 52.

QUESTIONS PRESENTED.

1. Can the Illinois Supreme Court disregard the provisions of the Magna Carta and the Fourteenth Amendment to the Constitution of the United States, so that they do not have to rule on the intentional violation of the same amendment by judges and attorneys.

2. When an employee of a corporation accepts an assignment for a good and valuable consideration and subsequently sues on the assignment, is it automatically a subterfuge to practice law or do the courts have to hold hearings to determine that it is a subterfuge to practice law?

3. Can a litigant practice law without a client?

4. When the Appellate Court tries and convicts the litigant of violating the Attorneys and Counselors Act of Illinois, on their own surmises and guesses, without process or hearing of any kind, is the matter appealable or is it a criminal action requiring a formal complaint in a Federal Court, and are they subject to suit under Title 8 U. S. C. A., chapter 3, sections 43 and 47?

5. Can any court write an opinion based on subject matter over which they never had jurisdiction and not be in violation of the Fourteenth Amendment?

6. When the opinions of some of the Appellate and Supreme Courts of the State of Illinois are illegally used to libel a layman litigant, is the litigant estopped from getting relief in the Federal Court?

7. When the opinion of the Supreme Court is a violation of a criminal statute of Illinois, based on their erroneous surmises and guesses, is the subject matter appealable, or must the opinion be suppressed by either petition for writ of mandamus to expunge, or petition for writ of prohibition to estop its being sold after it is printed, or both items?

ERRORS RELIED ON FOR REVERSAL.

1. The first lower court judge refused to comply with the rules of the Superior Court of Cook County, the Civil Practice Act of Illinois, showed discrimination in favor of defendants' counsel, was insulting and abusive, and intentionally violated the Fourteenth Amendment to the Constitution of the United States (hereinafter referred to as the 14th Amendment), illegally using the press in an attempt to intimidate this plaintiff into dropping the suit, allowing counsel for the defendants to insult and abuse the petitioner, knowing the press

was present, and untruthfully informed the press the petitioner did not know the rules of the Court, which covered up his own violations of the rules which aided the defendants and defendants' counsel, to continue the action when they were in default.

2. The second lower court judge refused to comply with the rules of the Superior Court of Cook County and the Civil Practice Act of Illinois, wrongfully assumed he had jurisdictional powers, exceeded his authorized authority, and intentionally violated the Fourteenth Amendment to the Constitution of the United States by conspiring with the defendants' counsel to make a new party plaintiff without proper complaint or process, and attempting to nullify two written contracts (assignments) on file in his court, and thus in effect convicting four persons of perjury, on his own surmises and guesses, in order to entrap this petitioner into confessing to violating the Attorneys and Counsellors Act of Illinois (Smith Hurd Statutes of Illinois, chapter 13), if the petitioner complied with the order he signed.

3. The Supreme Court of Illinois in writing two opinions has untruthfully stated that a petition for leave to appeal was filed in the case of *Biggs* v. *Schwalge,* 341 Ill. App. 268, which would sustain the illegal act of the Court which wrote that opinion, and combined this with intentional ridicule and castigation not supported by the record, and although they have been apprised of their error by a petition for rehearing, by motion to correct their second opinion, by the Brief in this cause, and by the two Briefs and two Abstracts in the case of *Biggs* v. *Plebanek,* they have ordered the libellous opinion printed.

4. The opinion of *Biggs* v. *Schwalge,* 341 Ill. App. 268 was based on manufactured evidence necessary to

make the surmises and guesses of the Appellate Court First District, Third Division support their buffoonery, and illegal ridiculing of the plaintiff, and as the Illinois Supreme Court is now knowingly saying they are condoning the illegal act of trying this petitioner *in absentia* for violating the Attorneys and Counselors Act of Illinois on the surmises and guesses of an Appellate Court, their opinion is libelous, and violates the Fourteenth Amendment, and has for its purpose the estopping of this plaintiff from the privilege granted him by Article 1, Section 10, and Article 4, Sections 1 and 2 of the Constitution of the United States, and the Ninth Amendment of suing and defending for his own property in any court.

5. The action of the Justices of the Supreme Court make the Attorneys and Counselors Act of Illinois (Smith-Hurd Statutes of Illinois, chapter 13 (1949) in violation of the Fourteenth Amendment, and Section 92-1(D) of the Illinois Civil Practice Act in violation of the same amendment, as the Justices are using both sections to deprive this petition of his reputation by indulging in criminal libel not based on any record in their courts.

STATEMENT OF THE CASE.

The petitioner is a general contractor, and entered into an agreement with the respondents Walter Spader and Mrs. Walter Spader, his wife, (hereinafter referred to for convenience sake as the respondents Spader) to construct a home without any intention of making a profit, and he spent approximately $1800.00 which could have accrued to him as profits, and hundreds of hours of his time, with no intention of obtaining renumeration for the same, and when the home was practically complete, and

the respondents Spader were in the home, he procured an electric stove for them at his cost, and upon refusal to pay for the stove and other items then past due, he refused to complete the minor items on the home, and after meeting the respondents Spader's counsel, suggesting a settlement which the counsel apparently attempted to make, this counsel's services were dispensed with by the respondents Spader, and a suit was started to get the money due this petitioner in the Superior Court of Cook County, Illinois, (hereinafter referred to as the lower court), and an attorney who does not have to follow the rules of court, and illegally used the press, jeopardized the defendants Spader's interest, and judgment is due the petitioner because of three intentional defaults.

While the litigation was pending, the Congress of the United States passed legislation whereby, if the respondents Spader did not have a home they could obtain $10,000.00 from the government, (R. 75) and as they could sell the home built at this petitioner's cost for a good profit, it would appear that someone reasoned that the respondents Spader would have to have a different reason to justify the sale of a home especially built for a paraplegic veteran, and it apparently requires a lawsuit to justify the sale, which would make a good fee for an attorney, and probably the respondents Spader at this time do not know what to do. This is of course an assumption, but is based on the fact that while the respondents Spader were taking advantage of this petitioner at various times, (R. 54 to 72, inc.) this petitioner at this writing is of the opinion that the respondents Spader are the victims of poor legal representation, both as to Court matters and legal advice.

REASONS FOR ISSUING ANY ONE OR ALL OF THE WRITS REQUESTED.

Point 1.

The Opinion of the Supreme Court is a nullity.

(Allegation 1)

The Supreme Court in its second opinion has admitted that the plaintiff was entitled to prosecute the action in the lower court without counsel, saying "Appellant has the right to appear *pro se*", (Appendix "A", advance sheets of 411 Ill. 42 *Biggs* v. *Spader* this case).

However, when the Supreme Court in the same opinion says it denied a petition for leave to appeal in the case of *Biggs* v. *Schwalge* (341 Ill. App. 268), altho the statement is false and untrue, it is still saying that the lower court could dismiss a case because the petitioner refused to hire counsel for himself. Thus the Appendix "A" (*Biggs* v. *Spader,* 411 Ill. 42) in reality as written, is a nullity. This court should note that the order of dismissal was abstracted when Appendix "A" says otherwise. (R. 83-84)

Point 2.

The Supreme Court of Illinois is discriminating against this petitioner.

(Allegation 2)

The Supreme Court refused to pass on the violations of the 14th Amendment as set forth in points I, II, III, IV, VI, VII, VIII, IX, X, XI, XII and XIII of the petitioner's Brief, on the theory that the petitioner had not followed Rule 39 of the Supreme Court; however the rule was followed, and in the same volume of the Supreme Court Reporter in the case of *Roy Kinney* v. *The City*

of Joliet, (411 Ill. 289) in an opinion filed on the same day, the same Court said,

> "* * * where the Court is able to determine from an examination of the entire Brief the major questions involved, the appeal will not be dismissed." (page 292)

It is quite apparent that this layman litigant was discriminated against, as the Supreme Court has said,

> "We have grave doubts as to the propriety of the judgment" (*Biggs* v. *Spader,* 411 Ill. 42—Appendix "A" this case)

but the appeal was dismissed on their own motion.

There is of course ample evidence of other prejudice by the Supreme Court of Illinois in this same case; as while this Court in *Supreme Council of the Royal Arcanum* v. *Green,* 237 U. S. 531, 50 L. ed. 1089 did strike the Brief, it also reversed the case. This should and could have been done in this case. It should also be noted that the responding Justices would not permit the report of proceedings to be corrected by any means, and that Judges John J. Lupe and Bolton did obstruct and pervert justice by making the reports of proceedings inaccurate and incomplete when Judge Bolton knew they were not. (R. 100-101).

Likewise in *Conrad* v. *Barter,* 269 Ill. 421 and *Zukas* v. *Appleton Mfg. Co.,* 277 Ill. 87, all three cases being part of Appendix "A"; while the Briefs were stricken; counsel was allowed to file new Briefs. This petitioner was not allowed to file new Briefs, altho motion was made to do this. (R. 190). Not being sarcastic, but just stating a simple fact, the Illinois Supreme Court says that when a counsel attacks the educational background of a judge, and berates him for his actions, the counsel who

should know better can file new Briefs, a layman litigant who simply states that a judge and an attorney intentionally violated the 14th Amendment, which makes them unfit to practice law, that makes the layman open to castigation and criminal libel, so that the Justices do not have to check the record so that they can find that the judge and the attorney did make a new party plaintiff without process or complaint, and did intentionally violate the 14th Amendment.

It would be in the interest and welfare of all of the citizens of Illinois if this Court will inform the Justices of the Supreme Court that ridicule is a coward's weapon when used against any litigant who can not answer their untrue statements without being in contempt of court, or spending a huge financial sum to appeal their ruling to this court, and they should be told that men who do not get angry at crime, illegal acts of courts, and the moral breakdown of too many attorneys who libel and slander litigants in court to win a point, do not possess the heritage the founders of this United States left them and are a spineless set of mollycoddles that this world can well do without.

Point 3.

The opinions Biggs vs. Schwalge, 341 Ill. App. 268 and Appendix "A" before and after its modification are libellous, and the responding justices are depriving this plaintiff of his reputation without due process of law, in violation of the 14th Amendment.

(Allegation 3)

Chapter 38 of Smith Hurd Statutes of Illinois (1951), section 402 (page 1383) provides as follows:

> "A libel is a malicious defamation, expressed either by printing—tending to impeach the honesty, in-

tegrity, virtue or reputation—of one who is alive, and thereby to expose him to public hatred, contempt, ridicule, or financial injury."

A reading of all the Schwalge and Spader opinions will show that they fell within the condemnation of the section of statute quoted.

Any argument that malice was not part and parcel of the opinions can be refuted by the following facts:

A. The pleadings as listed do not exist in the *Schwalge* case.

B. In the same case the finding that a litigant would risk a sum that could reach $1,000,000.00 to appear before a court just because it appealed to him to be in a court, when he did not appear in the court, which wrote the opinion is too ridiculous to be believed, and if true it still would not be a violation of any law that can be legally written.

C. Likewise in the same case, although the writing of the motion for change of venue was attributed to the petitioner, the record shows it was done by an attorney, which is set forth in the report of proceedings and in the Brief, and called to the attention of the Court by petition for rehearing and a certificate of importance so that an appeal could be made, and repeated printing of that item supplies ample evidence of malice.

D. In this instant case, any Justice or his assistant knows that without permission from the Appellate Court to appeal a case involving $440.40 can not be appealed, and thus the Justices of the Supreme Court know that they did not have jurisdiction to deny a petition for leave to appeal that was never made in the *Schwalge* case.

E. When a petition for rehearing is filed and a motion made to correct an opinion so as to eliminate the statement that the Justices of the Illinois Supreme

Court denied a petition for leave to appeal in the *Schwalge* case, and the Court still insists that it did something that never happened, and could not happen, they want their untrue statement to stand and that proves malice.

F. The first Appendix "A" having contained abuse and ridiculing of this petitioner by the Supreme Court due to their own errors, common decency would require the Justices to notify all the holders of the illegal opinion that they erred, but when requested so to do, or give the names to this petitioner by motions, the responding Justices refused to notify persons that they had modified their opinion, and refused to give this petitioner the addresses of the purchasers so that he could notify them of the change, and the modification did not appear in the record now in the clerk's office until motion was made to have the modification show and all publications state only that the petition for rehearing was denied and there is no reference to a modification, the Justices of the Supreme Court of Illinois are acting with malice aforethought.

It can be added that the opinion *Biggs* v. *Schwalge* compares this petitioner's acts of appearing in court to sue for his own money as being comparable to the act of an ex-convict and disbarred attorney, *People* v. *Tinkoff* (399 Ill. 282), and the opinion says that the "law" has been violated, and being tried in absentia the act was condemned by the opinion in *re Oliver,* 333 U. S. 257, and in *Christopher* v. *United States,* 338 U. S. 84 this court has said a competent tribunal must pass on a crimnal act, and the action of the Appellate Court was a violation of the Criminal Statute of Illinois known as mock trials, (Smith Hurd Statutes of Illinois, chapter 38, section 381), because Appellate Courts do not have jurisdiction to try anyone for any kind of a criminal offense,

and the responding justices are untruthfully saying that the opinion, *Biggs* v. *Schwalge* is otherwise, which will aid the Justices of the Appellate Court if they are prosecuted for their criminal activities, and no one can be convicted of violating a law until he has been legally tried for the offense, and he must have had a right to defend himself, which did not occur in the *Schwalge* case, and the responding Justices are in violation of the Federal Criminal Code.

Point 4.

When the Supreme Court of Illinois refused to rule on the questions pertaining to the 14th Amendment, they did not have jurisdiction of this cause, and could not legally write an opinion.

(Allegation 4)

In the case of *Biggs* v. *Plebanek,* (407 Ill. 562 this court #577 Oct. Term 1951) the Supreme Court ruled that an error of the lower court in dismissing a case because the Court thought it was a violation of the Attorneys and Counselors Act of Illinois for this petitioner to sue on an assignment, did not raise a constitutional question, and as any case brought before the Appellate Court which came up there by this litigant because it was dismissed because of an assignment being involved, was upheld on the basis of the case of *Biggs* v. *Schwalge,* 341 Ill. App. 268, this petitioner was riding on an illegal mythical merry-go-round. It went from the lower court to the Supreme Court, who sent it to the Appellate Court, who dismissed it because it came from the Supreme Court, who would not permit a petition for leave to appeal be filed, and hence this Court had the case.

It was therefore necessary for this petitioner to find another way to get the Supreme Court to act on his ap-

peals and Point X of his Brief in this cause gave the Supreme Court jurisdiction which they refused to take, which is a violation of the 14th Amendment, however, when they refused to act on Point X (R. 172) on the basis of their own rulings; in the case of *People* v. *Metzger*, 291 Ill. 55, that they are the only Court who can hear a complaint about the illegal act of a judge, and the press can not be used; they again violated the 14th Amendment because they did not have jurisdiction of this cause unless they were willing to accept it under Point X (R. 172), as all other points on their own rulings (*Biggs* v. *Plebanek*, 407 Ill. 562) belonged in the Appellate Court.

The Justices of the Supreme Court of Illinois did not understand that when the lower court signed an order saying this petitioner would have to employ an attorney, and maintain the action for the E. J. Biggs Construction Co. (R. 95), and they will not see that what the lower court judge actually said was "Mr. Biggs you will confess to violating the Attorneys and Counsellors Act now, or I will dismiss your suit".

Point 5.

There is a conflict of decisions between this Court and those of the Pennsylvania Supreme Court which are contrary to this one coming from the Illinois Supreme Court.

(Allegation 5)

Point X and others of the petitioner's Brief in the Supreme Court (R. 172) quotes the case of *Schlesinger* v. *Musmanno* #1789 Misc. Docket Supreme Court of Pennsylvania. The decision is simple and based on the sound theory of law that when anyone goes to court he must know what he is going to be tried for, or what he has to argue to support his claim, and when the attorney in

that case was embarrassed by the illegal action of the Court, it is apparent that what counsel said to the Court was, under ordinary circumstances; contempt of the Court, and the Court so held, but the Supreme Court of Pennsylvania (*Schlesinger* v. *Musmanno,* 367 Pa. 476) said that when the Court went outside its jurisdiction it ceased to be a Court, and previously in *Sorrentino* v. *Graziano,* 341 Pa. 113, 119; 17 Atl. 2nd 373 this same judge was told that,

> "To depart from the clear line of duty through questions, expressions, or conduct, contravenes the orderly administration of justice".

This Court has said in the case of *Shepard* v. *State of Florida,* #420 October Term 1950, that printing *untrue* statements by the press not made in court contravenes the 14th Amendment, but the Supreme Court of Illinois says that if this petitioner objects to the mis-use of the press in the lower court the (Point VII R. 164) petitioner is attacking the press and the Court because of wrath and spleen.

According to the opinion of *Biggs* v. *Spader,* 411 Ill. 42, if this petitioner objects to being referred to as a "bum" (R. 31), if the Court says, "I am going to violate the law and estop you from presenting your own cases," (R. 167) so that the newspapers say in large headlines "JUDGE RAPS BUILDER AS LAWYER", (R. 167) and other judges are going to have "Roman Holidays" (R. 91-92) at this petitioner's expense and discomfiture, and contrary to this Court's ruling in *Townsend* v. *Buckey,* 334 U. S. 736 that a fair trial is mandatory, when the petitioner complained about the abuse, the insults, the extraneous matters, the lack of decency and honor among the judges and counsel of this state, the responding justices here did libel the petitioner even though they re-

fuse to take jurisdiction, so that the judges of the lower court can continue their illegal activities, and this petitioner contends this Court should stop the illegal activities of the responding justices, under Criminal Code Title 18 U. S. C. A., Section 52.

Point 6.

The action of the respondent justices in writing two per curiam opinions not sustained by the court records, contravenes and violates Article II, Section 19 and 20 of the Constitution of the State of Illinois, and is an intentional violation of the 14th Amendment, perpetrated to estop this petitioner's one man campaign to clean up the Courts in Cook County, Illinois, and makes Section 92, Paragraph 1 (d) of the Civil Practice Act of Illinois in violation of the 14th Amendment.

(Allegation 6)

In the past three years this petitioner has intentionally filed four petitions for writ of mandamus in the Supreme Court of Illinois to bring before that body the illegal activities of the Courts in Cook County, which are publicly described as controlled courts (see *Biggs* v. *Schwartz* #578 October Term of 1951, this Court), and the Supreme Court of Illinois has denied all the petitions, altho in all cases these petitions brought forth items that could not occur in Pennsylvania because of the decisions heretofore set forth, (*Schlesinger* v. *Musmanno,* 367 Pa. 476 and *Sorrento* v. *Graziano,* 341 Pa. 113), rendered in the Pennsylvania Supreme Court, and the present members of the Illinois Supreme Court are fully cognizant of the fact that this petitioner will gamble on losing his entire assets, rather than relinquish his right to appear in court in his own person, and secure equal courtesy and application of the court rules from the lower and the Appellate Courts, and unless they can discourage this petitioner

from appearing before them, they must of necessity rule in his favor by the law of averages, which will upset the boast of the lower court that they will never sustain a layman.

As stated heretofore, in Points 3 and 4 herein, they have shown prejudice, they have libeled him, they have held him in contempt of Court for unknown reasons, (opposing counsel said the petitioner should be held in contempt of court for saying "It was unfortunate that he was raised in a Christian Doctrine that teaches he is his Brother's Keeper"), and their opinions do not quote from the record, and they write untrue conclusions arrived at by misuse of section 92, paragraph 1, subparagraph (d) of the Civil Practice Act of Illinois (Smith Hurd Statutes of Illinois, chapter 110—section 216) whereby they will take an innocent statement that "the plaintiff wrote the letter in anger then" and they say in "his wrath and spleen" "he attacks the legislature by inference" (Appendix "A") because this petitioner says that section 92 of the Civil Practice Act is not properly limited, and it certainly should be properly defined and limited by this Court now to estop criminal libel by innuendo on conclusions of Justices of the Illinois Appellate and Supreme Court.

CONCLUSION.

It is quite obvious that when various business men and others sign the affidavits in support of the motion for summary judgment, and all speak of this petitioner under oath as they do, covering periods of twenty-five years, (R. 54 to 72 incl.), there has to be something wrong with the judgment of the responding Justices who read those affidavits, as they in effect in this case state they do not

understand that a criminal libel of a litigant is in conflict with a constitutional provision that "There has to be a law where everyone can protect his reputation (Art. II, Section 19 Constitution of 1870 of Illinois) and "A restatement of the aforesaid constitution (Art. II, Section 20)" and what is wrong, which has occurred to make Appendix "A" is not the desire of seven Justices of the Illinois Supreme Court, to libel this litigant in particular, but rather the refusal of some Justices to object to an opinion contrary to one or more other Justices, who may, or can, and probably did turn over the writing of their opinions to either the justices' lawyer or the lawyers' assistant, and this Court can stop this practice by issuing a rule to show cause why the opinion of *Biggs* v. *Spader,* 411 Ill. 42 should not be expunged from this court, and issue a writ of prohibition against the writing and printing of opinions containing untrue libelous statements, that can not legally emenate from the Illinois Supreme Court (allegation 6), and this Court should insist that the Illinois Supreme Court police the Courts of Cook County, because altho they have delegated that authority to the Chicago Bar Association under the Illinois Supreme Court Rule 59 (Smith Hurd Statutes, chapter 110, section 259.59) that body has refused over a period of eight years to entertain any complaints against members of the Illinois Bar brought by this petitioner, who have secured judgments against their own clients in a court without jurisdiction, who file perjurious pleadings that they or their stenographers sign, who filed perjurious pleadings directly opposite to those existing in the same case, who destroy and conceal records, one of whom alternately kicked this petitioner in the ankles and then used both fists beating on the section of his back so that the blows were directly over the kidneys, in court to induce this petitioner to return his blows, (which was not done) an-

other who committed perjury in an attempt to railroad this petitioner into the penitentiary, but they do not hesitate to intimidate him from appearing in court *pro se* as set forth in *Biggs* v. *Schwartz* #578, October Term 1951, this court, and for that reason and the reasons set forth in the numbered points and allegations, this Court should issue the writ of certiorari so that the sum due the petitioner is paid, as the respondents Spader are in default, and they are in default because their counsel knew he could secure favors from the Courts, and in the final analysis, the costs of this suit should not be borne by the respondents Spader, but by counsel Gustav E. Beerly, Jr., as this Court should protect the paraplegic veteran whose condition was illegally used to make a fee for a dishonest attorney, who is devoid of principle and entirely without honor, as pages 31-33-35-37 and Points VI, VII, VIII, IX, X, XIII, of the record show.

Respectfully submitted,

E. J. Biggs,
Petitioner.

PETITION FOR WRIT OF MANDAMUS OR PROHIBITION WITH PETITION FOR THE ISSUANCE OF AN IMMEDIATE RESTRAINING ORDER TO ESTOP THE PRINTING OF VOLUME #411 OF THE SUPREME COURT OF ILLINOIS.

The petitioner Eusebius James Biggs complaining of the responding Justices alleges as follows:

1. On the 27th day of November A. D. 1951 and the 21st day of January 1952 the responding justices, who have been heretofore named in other places of the Brief which is part of this petition, wrote two *per curiam* opinions which are set forth on pages 105 to 108 and 120 to 122 inclusive of this Record, which is a nullity for the reasons set forth under allegation 1 on page 9 of this Brief.

2. The responding justices were not acting in good faith, and are discriminating against this petitioner as is more clearly set forth in allegation 2 on page 9 of this Brief.

3. The opinions are libelous for the reasons set forth under allegation 3 on pages 11, 12, 13 and 14 of this Brief.

4. The aforesaid opinions are intentional violations of the 14th Amendment to the Constitution of the United States for the reasons set forth under allegation 3 on pages 11, 12, 13 and 14 of this Brief.

5. The responding justices did not have or accept jurisdiction of this cause, and therefore could not legally write an opinion in this cause for the reasons set forth under allegation 4 on pages 14-15 of this Brief.

6. The opinions are contrary to and in conflict with the rulings of this Court, and in another State Supreme Court, for the reasons set forth in allegation 5 on pages 15 and 16 of this Brief.

7. The writing of the opinions is an illegal act which contravenes Article II, section 19 of the Constitution of 1870 of the State of Illinois, for the particular reason that it tends to and will ruin the reputation of this petitioner as heretofore more fully set forth in allegation 6 set forth on pages 17 and 18 of this Brief.

8. That the writing of the opinions in part did not and will serve no lawful purpose, but has and will serve an unlawful purpose as it has been used to cast reflection on the character of this petitioner in a case before the Supreme Court of Illinois, and it can and will be used to defend the illegal activities of various judges, justices, and an attorney who have heretofore intentionally violated the 14th Amendment to the Constitution of the United States, and injured this petitioner by reason of their illegal acts.

Wherefore this petitioner prays this Court as follows:

1. That summons issue forthwith to the respondents Ralph L. Maxwell, Harry B. Hershey, George W. Bristow, Albert M. Crampton, Joseph E. Daily, and William J. Fulton.

2. That this Court issue a rule to show cause why a writ of mandamus should not issue forthwith to expunge the opinion known as *Biggs* v. *Spader,* 411 Ill. 42 as now written.

3. That the Court issue a rule to show cause why a petition for writ of prohibition should not issue to the respondents restraining them from writing opinions containing matters not necessary for the opinion to achieve the result desired, which contain reflections on the character, integrity and intelligence of this petitioner.

4. That this Court issue forthwith without notice a temporary restraining order restraining the printing of the opinion of *Biggs* v. *Spader* until further orders of this Court concerning this item are issued.

5. That this Court declare the Attorneys and Counsellors Act of Illinois, and Section 92-1-(d) of the Civil Practice Act of Illinois as being in violation of, or used in violation of the 14th Amendment to the Constitution of the United States, by these responding Justices.

6. That this Court permanently enjoin the responding justices from writing opinions not supported by either Briefs or Abstracts.

7. That this petitioner have other and further relief that may be just and meet in the premises.

8. That this petitioner have his costs including the printing of the Briefs in this cause.

Respectfully submitted,

EUSEBIUS J. BIGGS,
Petitioner.

State of Illinois }
County of Cook } ss.

Eusebius J. Biggs being duly sworn on oath, deposes and says that he read the foregoing Petition by him subscribed, and the facts stated therein are true in substance and in fact, and are of his own knowledge.

EUSEBIUS J. BIGGS,
Petitioner.

Subscribed and Sworn to
before me this 3rd day of
April A. D. 1952.

P. E. Peterson
Notary Public

APPENDIX A.

[fol. 12b] Opinion modified on first and last pages upon denial of petition for rehearing January 21, 1952
Docket No. 31996—Agenda 29—September, 1951.

EUSEBIUS J. BIGGS, Appellant

v.

WALTER SPADER, ET AL., Appellees.

PER CURIAM: This action had its beginning in the suprior court of Cook County when Eusebius J. Biggs, individually and as the assignee of the E. J. Biggs Construction Co., filed an action to foreclose a mechanics lien together with a separate law count embracing money allegedly due for items furnished in connection with the erection of a home for Walter Spader and his wife, who were named as defendants. Biggs, who is a general contractor by profession, appears *pro se* in this court, just as he did in the trial court, and has filed a brief which is obviously of his own composition.

The appeal to this court purports to be from several orders entered by the trial court in the course of preliminary hearings on the pleadings, yet none of such orders are complained of in the errors relied upon for reversal. The errors assigned, rather, range from argumentative statements changing judges of the trial court and of the Appellate Court with prejudice and libel, to extremely vague allegations that certain court rules and provisions of the Civil Practice Act have been violated. A reading of the brief fails to bring enlightenment as to whether there was a final and appealable order in this cause, whether there are any grounds which give this court jurisdiction on direct appeal, or whether appellant is seeking a review of the issues in the case of *Biggs* v. *Schwalge,* 341 Ill. App. 268, in which this court previously denied his petition for leave to appeal. The entire brief is presented in a manner that is ambiguous and arduous and does not

present the issues sought to be determined in the orderly manner required to expedite and facilitate the administration of justice.

Rule 39 of this court (Ill. Rev. Stat. 1949, chap. 110, par. 259.39) prescribes the manner in which the briefs of litigants shall present the issues to be reviewed to this court. The brief filed by the appellant, particularly with respect to the statement of errors relied upon for reversal, falls far short of being the clear statement of his case anticipated by the rule. This court has not only the inherent power to prescribe rules of practice and procedure, but has also had that power expressly conferred upon it by statute. (Ill. Rev. [fol. 12c] Stat. 1949, chap. 110, par. 126.) Such rules, when established, have the force of law. (*Department of Finance* v. *Sheldon,* 381 Ill. 256; *Gyure* v. *Sloan Valve Co.,* 367 Ill. 489.) It is obvious that some logical order for the presentment of the issues to be reviewed must be observed, and the bar, or others appearing before us, are presumed to be aware of the rules prescribed. (*Buckley* v. *Eaton,* 60 Ill. 252.) It is not the duty of this court to search the record to determine what the real issues in a contest are, nor to seek for material for the disposition of such issues. (*Village of Barrington* v. *Lageschulte,* 323 Ill. 343.) The failure to properly or informatively state the errors relied upon for reversal makes it impossible for a reviewing court to determine the issues sought to be raised and justifies dismissal of the appeal. (*Swain* v. *Hoberg,* 380 Ill. 442.) The order and manner in which a brief presents the issues is not jurisdictional, but, on the other hand, a reviewing court may determine whether of not its rules have been substantially complied with, and when there is a failure to comply with them, the appeal will not be entertained. To do so would nullify the rule. (*Guyre* v. *Sloan Valve Co.,* 367 Ill. 489.) The appeal in the present cause must, then, be dismissed for failure to comply with the provisions of Rule 39.

Before entering the order of dismissal, we regret that we must further rule on the brief filed by appellant in this

court. Appellant has obviously used his appearance in the lower court and his written argument in this court as media to give vent to a wrath which has been built up by an interminable series of litigation in which he has indulged, sometimes successfully, sometimes otherwise. His printed argument is full of contemptuous and impertinent, expressions against the mentality, ability, legal knowledge and ethics of some of the judges before whom he appeared in this proceeding and in other unrelated cases. Other targets for his spleen are the Appellate Courts, opposing counsel, lawyers and newspaper reporters in general, and to some degree, by implication, the legislature of our State. The abstract filed reflects that he was guilty of like conduct in his appearance and pleadings in the lower court. Such an attitude need not be tolerated in the press of the vital and serious business matters that constantly come to the calendar of this court, nor may the records of this court be used as a vehicle for abuse of the judge, opposing counsel, or other public officials. As pointed out in *Conrad* v. *Barto,* [fol. 12d] 269 Ill. 421, "Entire freedom of criticism is allowable so far as the rulings of the court are concerned, but the argument must be based on the record, and attacks on the integrity, intelligence or motives of the judge cannot be permitted." The brief of appellant here transcends that precept of this court.

It is our duty to keep the records of this court free from scandal and vituperation. The performance of that duty leaves us no alternative other than to order the brief of the appellant stricken from the files. *Conrad* v. *Barto,* 269 Ill. 421; *Zukas* v. *Appleton Mfg. Co.,* 277 Ill. 87; *Green* v. *Elbert,* 137 U. S. 615, 34 L. ed. 792; *Supreme Council of the Royal Arcanum* v. *Green,* 237 U. S. 531, 59 L. ed. 1089.

The appeal is dismissed and appellant's brief is stricken from the files for the reasons heretofore stated. In entering these orders we are not unaware that the appellant, who has prosecuted this appeal *pro se,* is not a licensed attorney schooled in the practice of law. Regardless of that fact, the orderly administration of the affairs of this

court necessitate that its rules and precedents be followed. We have serious doubts as to the propriety of the judgment order in this cause, which appears to have been based solely upon appellant's refusal to comply with the court's direction to employ an attorney to represent him. Appellant has, of course, a right to appear *pro se,* but when he does so he must comply with the established rules of procedure.

Appeal dismissed; brief stricken.